

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA  
COMMISSION DIRECTIVE**

|                       |                                     |            |                         |
|-----------------------|-------------------------------------|------------|-------------------------|
| ADMINISTRATIVE MATTER | <input type="checkbox"/>            | DATE       | <u>January 24, 2018</u> |
| MOTOR CARRIER MATTER  | <input type="checkbox"/>            | DOCKET NO. | <u>2017-32-E</u>        |
| UTILITIES MATTER      | <input checked="" type="checkbox"/> | ORDER NO.  | <u></u>                 |

**SUBJECT:**

DOCKET NO. 2017-32-E - 3109 Hwy. 25 S., L.L.C. d/b/a 25 Drive-In and Tommy McCutcheon, Complainant/Petitioner v. Duke Energy Carolinas, LLC, Defendant/Respondent - Staff Presents for Commission Consideration Duke Energy Carolinas, LLC's Petition for Rehearing and/or Reconsideration of Order No. 2017-774.

**COMMISSION ACTION:**

Move that we deny the Petition for Rehearing or Reconsideration of Order No. 2017-774 in Docket No. 2017-32-E. The Petition states that the factual findings of the Commission in Order No. 2017-774 do not provide a basis for the relief granted, but that is not the case. The Petition mischaracterizes our Order as requiring DEC to place the Complainant back on the Greenwood Rate "unless and until the demand of the Complainant's business exceeds the capacity of the facilities that were replaced in June 2015." In reality, the Commission order requires that the Complainant be given access to the Greenwood Rate as long as they stay within the original limitations of the equipment that was installed to serve the premises, which was in place at the time of Act 1293 of 1966 and the subsequent purchase of Greenwood County Electric Power Commission by Duke (at the time called Duke Power Company). We are limiting, in effect, the ability of the Complainant to exceed the facility capacity equal to the facility capacity available over 50 years ago at the site, unless the Complainant migrates off the Greenwood Rate. As a practical matter, this may be more restrictive than the previously unmonitored limitation, which used the electrical delivery facility's physical limits as its only load restriction.

It is my view that our ruling, which is specific to the facts of this case, does not unjustly enrich the Complainant nor unduly penalize the Respondent. It merely affords an active participant on the Greenwood Rate an opportunity to comply with the facility limitations that it was unaware might have been strained. We did not have testimony to support the position that the demand load was the same after installation of the new facilities as before. It is dubious that we could have had credible testimony to that effect since the demand load was not being measured and reported.

Additionally, our Order No. 2017-774 is neither inconsistent with the Payne (1991) Supreme Court Opinion, nor does it go further than to clarify, as applied to the facts and circumstances of this case, the Commission's own rulings from 1966 forward. We would agree, as DEC points out, Act 1293 does not provide an opportunity to re-qualify for the Greenwood Rate. That is, however, not the action we have taken. Rather, we have simply concluded that inadequate information was available to determine that a change in character was necessitated in this case due solely to the actions of the Complainant.

I believe that we have struck an appropriate balance between the needs of the utility to provide safe, reliable, and economic power and the concerns of the consumer to make informed and self-determinative actions to exercise its rights under its approved electric tariff.

For these reasons, Mr. Chairman, I move that we deny the Petition for Rehearing or Reconsideration.

PRESIDING: WhitfieldSESSION: RegularTIME: 2:00 p.m.

|         |                          |                                     |                          |       |
|---------|--------------------------|-------------------------------------|--------------------------|-------|
|         | MOTION                   | YES                                 | NO                       | OTHER |
| BOCKMAN | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |       |

|           |                                     |                                     |                          |
|-----------|-------------------------------------|-------------------------------------|--------------------------|
| ELAM      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| FLEMING   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| HAMILTON  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| HOWARD    | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| RANDALL   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| WHITFIELD | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

(SEAL)



RECORDED BY: J. Schmieding